



General Assembly

Substitute Bill No. 285

February Session, 2010

* ____SB00285GAE__031810__ *

**AN ACT REQUIRING PUBLIC BIDDING FOR JUDICIAL DEPARTMENT
PUBLIC BUILDING CONTRACTS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 4b-91 of the 2010 supplement to the general
2 statutes is repealed and the following is substituted in lieu thereof
3 (*Effective October 1, 2010*):

4 (a) Every contract for the construction, reconstruction, alteration,
5 remodeling, repair or demolition of any public building or any other
6 public work by the state except a public highway or bridge project or
7 any other construction project administered by the Department of
8 Transportation, which is estimated to cost more than five hundred
9 thousand dollars, except a contract awarded by the Commissioner of
10 Public Works for (1) a community court project, as defined in
11 subsection (j) of section 4b-55, (2) the downtown Hartford higher
12 education center project, as defined in subsection (l) of section 4b-55,
13 (3) a correctional facility project, as defined in subsection (m) of section
14 4b-55, (4) a juvenile detention center project, as defined in subsection
15 (n) of section 4b-55, or (5) a student residential facility for the
16 Connecticut State University System that is a priority higher education
17 facility project, as defined in subsection (f) of section 4b-55, shall be
18 awarded to the lowest responsible and qualified general bidder who is
19 prequalified pursuant to section 4a-100 on the basis of competitive bids

20 in accordance with the procedures set forth in this chapter, after the
21 Commissioner of Public Works or, in the case of a contract for (A) the
22 construction of or work on a building or other public work under the
23 supervision and control of the Joint Committee on Legislative
24 Management of the General Assembly, the joint committee; [or, in the
25 case of a contract for] (B) the construction of or work on a building or
26 other public work under the supervision and control of one of the
27 constituent units of the state system of higher education, the
28 constituent unit; or (C) the construction of or work on a building or
29 other public work under the supervision and control of the Judicial
30 Branch, the Judicial Department, has invited such bids by notice
31 posted on the State Contracting Portal. Every contract for the
32 construction, reconstruction, alteration, remodeling, repair or
33 demolition of any public building or any other public work by a public
34 agency that is paid for, in whole or in part, with state funds and that is
35 estimated to cost more than five hundred thousand dollars, except a
36 public highway or bridge project or any other construction project
37 administered by the Department of Transportation, shall be awarded
38 to a bidder that is prequalified pursuant to section 4a-100 after the
39 public agency has invited such bids by notice posted on the State
40 Contracting Portal. The Commissioner of Public Works, the joint
41 committee, the constituent unit, the Judicial Department or the public
42 agency, as the case may be, shall indicate the prequalification
43 classification required for the contract in such notice. As used in this
44 section, "prequalification classification" means the prequalification
45 classifications established by the Commissioner of Administrative
46 Services pursuant to section 4a-100. As used in this section, "public
47 agency" means public agency, as defined in section 1-200.

48 (b) The Commissioner of Public Works, the joint committee, [or] the
49 constituent unit or the Judicial Department, as the case may be, shall
50 determine the manner of submission and the conditions and
51 requirements of such bids, and the time within which the bids shall be
52 submitted, consistent with the provisions of sections 4b-91 to 4b-96,
53 inclusive, as amended by this act. Such award shall be made not later

54 than ninety days after the opening of such bids. If the general bidder
55 selected as the general contractor fails to perform the general
56 contractor's agreement to execute a contract in accordance with the
57 terms of the general contractor's general bid and furnish a performance
58 bond and also a labor and materials or payment bond to the amount
59 specified in the general bid form, an award shall be made to the next
60 lowest responsible and qualified general bidder. No employee of the
61 Department of Public Works, the joint committee, [or] a constituent
62 unit or the Judicial Department with decision-making authority
63 concerning the award of a contract and no public official, as defined in
64 section 1-79, may communicate with any bidder prior to the award of
65 the contract if the communication results in the bidder receiving
66 information about the contract that is not available to other bidders,
67 except that if the lowest responsible and qualified bidder's price
68 submitted is in excess of funds available to make an award, the
69 Commissioner of Public Works, the Joint Committee on Legislative
70 Management, [or] the constituent unit or the Judicial Department, as
71 the case may be, may negotiate with such bidder and award the
72 contract on the basis of the funds available, without change in the
73 contract specifications, plans and other requirements. If the award of a
74 contract on said basis is refused by such bidder, the Commissioner of
75 Public Works, the Joint Committee on Legislative Management, [or]
76 the constituent unit or the Judicial Department, as the case may be,
77 may negotiate with other contractors who submitted bids in ascending
78 order of bid prices without change in the contract, specifications, plans
79 and other requirements. In the event of negotiation with general
80 bidders as provided in this section, the general bidder involved may
81 negotiate with subcontractors on the same basis, provided such
82 general bidder shall negotiate only with subcontractors named on such
83 general bidder's general bid form.

84 (c) No person may bid on a contract or perform work pursuant to a
85 contract that is subject to the provisions of subsection (a) of this section
86 unless the person is prequalified in accordance with section 4a-100.

87 (d) Each bid submitted for a contract described in subsection (c) of
88 this section shall include an update bid statement in such form as the
89 Commissioner of Administrative Services prescribes and, if required
90 by the public agency soliciting such bid, a copy of the prequalification
91 certificate issued by the Commissioner of Administrative Services. The
92 form for such update bid statement shall provide space for information
93 regarding all projects completed by the bidder since the date the
94 bidder's prequalification certificate was issued or renewed, all projects
95 the bidder currently has under contract, including the percentage of
96 work on such projects not completed, the names and qualifications of
97 the personnel who will have supervisory responsibility for the
98 performance of the contract, any significant changes in the bidder's
99 financial position or corporate structure since the date the certificate
100 was issued or renewed, any change in the contractor's qualification
101 status as determined by the provisions of subdivision (6) of subsection
102 (c) of section 4a-100 and such other relevant information as the
103 Commissioner of Administrative Services prescribes. Any bid
104 submitted without a copy of the prequalification certificate, if required
105 by the public agency soliciting such bid, and an update bid statement
106 shall be deemed invalid. Any public agency that accepts a bid
107 submitted without a copy of such prequalification certificate, if
108 required by such public agency soliciting such bid, and an update bid
109 statement may become ineligible for the receipt of funds related to
110 such bid.

111 (e) Any person who bids on a contract described in subsection (c) of
112 this section shall certify under penalty of false statement at the
113 conclusion of the bidding process that the information in the bid is
114 true, that there has been no substantial change in the bidder's financial
115 position or corporate structure since the bidder's most recent
116 prequalification certificate was issued or renewed, other than those
117 changes noted in the update bid statement, and that the bid was made
118 without fraud or collusion with any person.

119 (f) Any person who receives information from a state employee or

120 public official that is not available to the general public concerning any
121 construction, reconstruction, alteration, remodeling, repair or
122 demolition project on a public building or any other public work prior
123 to the date that a notice for bids on the project is posted shall be
124 disqualified from bidding on the project.

125 (g) Notwithstanding the provisions of this chapter regarding
126 competitive bidding procedures, the commissioner may select and
127 interview at least three responsible and qualified general contractors
128 who are prequalified pursuant to section 4a-100 and submit the three
129 selected contractors to the construction services award panels process
130 described in section 4b-100a and any regulation adopted by the
131 commissioner. The commissioner may negotiate with the successful
132 bidder a contract which is both fair and reasonable to the state for a
133 community court project, as defined in subsection (j) of section 4b-55,
134 the downtown Hartford higher education center project, as defined in
135 subsection (l) of section 4b-55, a correctional facility project, as defined
136 in subsection (m) of section 4b-55, a juvenile detention center project,
137 as defined in subsection (n) of section 4b-55, or a student residential
138 facility for the Connecticut State University System that is a priority
139 higher education facility project, as defined in subsection (f) of section
140 4b-55. The Commissioner of Public Works, prior to entering any such
141 contract or performing any work on such project, shall submit such
142 contract to the State Properties Review Board for review and approval
143 or disapproval by the board, pursuant to subsection (i) of this section.
144 Any general contractor awarded a contract pursuant to this subsection
145 shall be subject to the same requirements concerning the furnishing of
146 bonds as a contractor awarded a contract pursuant to subsection (b) of
147 this section.

148 (h) Any agency that seeks to have a project awarded without being
149 subject to competitive bidding procedures shall certify to the joint
150 committee of the General Assembly having cognizance of matters
151 relating to government administration and elections that the project is
152 of such an emergency nature that an exception to the competitive

153 bidding procedures of this section is required. Such certification shall
 154 include input from all affected agencies, detail the need for the
 155 exception and include any relevant documentation.

156 (i) In the event that the General Assembly approves legislation
 157 authorizing an exception to the competitive bidding process for a
 158 project, the State Properties Review Board shall complete a review of
 159 the contract for such project and approve or disapprove such contract
 160 no later than thirty days after the Commissioner of Public Works
 161 submits such contract to the board. Such review shall be conducted in
 162 accordance with the provisions of section 4b-3. In the event that such
 163 review does not occur within the thirty-day period prescribed by this
 164 subsection, such contract shall be deemed to be approved.

165 (j) On and after October 5, 2009, no person whose subcontract
 166 exceeds five hundred thousand dollars in value may perform work as
 167 a subcontractor on a project for the construction, reconstruction,
 168 alteration, remodeling, repair or demolition of any public building or
 169 any other public work by the state or a municipality, except a public
 170 highway or bridge project or any other construction project
 171 administered by the Department of Transportation, which project is
 172 estimated to cost more than five hundred thousand dollars and is paid
 173 for, in whole or in part, with state funds, unless the person is
 174 prequalified in accordance with section 4a-100. The provisions of this
 175 subsection shall not apply to a project described in subdivision (2) of
 176 subsection (a) of this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2010	4b-91

GAE *Joint Favorable Subst.*